

AMENDED IN SENATE AUGUST 12, 1998

AMENDED IN SENATE JULY 6, 1998

AMENDED IN SENATE JUNE 18, 1998

AMENDED IN ASSEMBLY APRIL 28, 1998

AMENDED IN ASSEMBLY APRIL 16, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2693

**Introduced by Assembly Members Migden and Thomson
(Coauthors: Assembly Members Granlund and Runner)**

February 23, 1998

An act to add Section 11159.2 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2693, as amended, Migden. Controlled substances: prescriptions.

Existing law requires each prescription for a controlled substance classified in Schedules II, III, IV, and V to comply with specified conditions, and requires each prescription for a Schedule II controlled substance to be prepared in triplicate and one of the copies of the prescription to be sent to the Department of Justice. A violation of these requirements is a crime.

This bill would provide that a prescription for a Schedule II controlled substance, for use by a patient who has a terminal illness, as defined, shall be exempt from the above specified

conditions, but shall comply with the requirements set forth in the bill. By changing the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares
2 the following:

3 (1) Although most, if not all, cancer pain can be
4 relieved, a significant number of cancer patients with
5 pain are inadequately treated, and some cancer patients
6 die with severe, unrelieved pain.

7 (2) The mainstay of cancer pain management is opioid
8 therapy, which therapy utilizes controlled substances
9 classified in Schedule II.

10 (3) A prescription form for a Schedule II controlled
11 substance is required to be prepared in triplicate, and the
12 original is required to be sent to the Department of
13 Justice.

14 (4) The Appropriate Prescribing Task Force of the
15 Medical Board of California has recognized that pain is
16 undertreated in California in part due to physicians'
17 concern about undergoing investigation ~~by the~~
18 ~~Department of Justice~~ for overprescribing.

19 (5) Forty-five states in the nation have no
20 requirement for triplicate prescriptions.

21 (6) Schedule II controlled substances would be
22 prescribed more for the treatment of pain if prescription
23 forms were not required to be sent to the Department of
24 Justice.

25 (b) It is the intent of the Legislature, by the enactment
26 of this act, to reduce the undertreatment of pain—~~for~~

~~1 terminally ill patients by Schedule II controlled~~
~~2 substances. with the appropriate and legal prescribing of~~
~~3 Schedule II controlled substances for terminally ill~~
~~4 patients in order to relieve their pain and suffering.~~

(c) It is the intent of the Legislature that any state agency or board that adopts regulations pursuant to this act shall, prior to any adoption of regulations, review the report of the Controlled Substances Utilization Review and Evaluation Systems (CURES) Project required under Section 11165 of the Health and Safety Code and consider the data contained in the report.

(d) It is the intent of the Legislature that if state law requiring official prescription blanks for Schedule II medications is repealed in its entirety, then the requirements of this chapter would be unnecessary and should be repealed.

SEC. 2. Section 11159.2 is added to the Health and Safety Code, to read:

11159.2. (a) Notwithstanding any other provision of law, a prescription for a Schedule II controlled substance for use by a patient who has a terminal illness shall not be ~~subject to Sections 11161 to 11164, inclusive.~~ *subject to Section 11164.*

(b) *(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, — directions for use, and the prescriber's certification that the patient has a terminal illness, as indicated by the words "11159.2 exemption" on the prescription. The and directions for use. The signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.*

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed, as provided in paragraph (3) of subdivision (b) of Section 11164, and shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of

1 the prescriber, as provided in paragraph (2) of
2 subdivision (b) of Section 11164. ~~The entire prescription~~
3 ~~shall be wholly written in ink or indelible pencil in the~~
4 ~~handwriting of the prescriber.~~

5 ~~(e)(b) of Section 11164.~~

6 (3) *The prescription shall also indicate that the*
7 *prescriber has certified that the patient is terminally ill by*
8 *the words “11159.2 exemption.”*

9 (c) *A pharmacist may fill a prescription pursuant to*
10 *this section when there is a technical error in the*
11 *certification required by paragraph (3) of subdivision*
12 *(b), provided that he or she has personal knowledge of*
13 *the patient’s terminal illness, and subsequently returns*
14 *the prescription to the prescriber for correction within 72*
15 *hours.*

16 (d) For the purposes of this section, “terminal illness”
17 is an illness which may, in the professional judgment of
18 the physician, be characterized as ~~follows~~ *both of the*
19 *following:*

20 (1) An illness from which a patient is expected to die
21 *within one year*, if the illness takes its normal course.

22 (2) An illness for which the primary goal of treatment
23 is the control of pain and other symptoms of the illness,
24 and not the cure of the illness.

25 SEC. 3. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs that may be incurred
28 by a local agency or school district will be incurred
29 because this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition
33 of a crime within the meaning of Section 6 of Article
34 XIII B of the California Constitution.

35 Notwithstanding Section 17580 of the Government
36 Code, unless otherwise specified, the provisions of this act
37 shall become operative on the same date that the act
38 takes effect pursuant to the California Constitution.

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